

NOTE

24 August 2006

To: Heads of AB, AT, FI, IT, PH, TS Departments
Copy: Secretary General
From: CERN-EU Office
Subject: Contribution of the TS Department in EU FP6 Projects

1. Background information

In some cases, the TS Department provides certain “jobs” to other departments in the framework of their participation in EU projects. Such jobs include technical design and drawings for certain components, manufacturing and assembly of printed electronic circuits, etc. They do not cover tasks mentioned in the Technical Annex of the EU Contract but are elements necessary to enable CERN to carry out such tasks.

Most of the “jobs” are carried out by external firms within framework agreements CERN has with these firms to cover its own needs. In this case TS charges the user department the contractual cost for the “purchase” of this particular “job”. In exceptional cases the cost charged by TS for such “jobs” may amount up to 35% of the Cost Claims for some EU projects (e.g DIRAC in 2005).

The TS “jobs” fall in the category “Materials” in CERN’s accounting system.

2. The issue at stake

Currently, the costs charged by the TS Department for TS “jobs” are considered by CERN as direct EU project costs, eligible for reimbursement with 20% of overheads on the initial costs (according to the Additional Cost model that we use).

Some concerns have been raised as to the nature of the TS “jobs”, and in particular, **whether they could be considered as subcontracting** in EU projects, since they are executed by external contractors (“third party” according to the FP6 Financial Guidelines).

In order to examine and discuss this issue, the EU Office, at the request of the AB Department, organized a meeting on 13 July 2006 with the following participants:

Tristan Bauswein	Internal Audit
Angela Goehring-Crinon	Legal Service
Ronald Forrest	AB Department
Alexia Augier-Bochon	FI Department
Marguerite Maitrel	FI Department
Svetlomidir Stavrev	EU Office

3. Discussion

The following items were discussed:

- (i) can CERN consider the various kinds of TS “jobs” as material expenses
- (ii) should the TS “jobs” be considered as subcontracting in the context of EU projects

4. Coordinated position

Having regard to the following financial provisions related to FP6 Contracts:

- In FP6, unlike previous Framework Programmes, there are no defined eligible cost categories, such as personnel, durable equipment, consumables, travel, etc. The **eligible costs** for each project “must be determined in accordance with the usual accounting principles of the contractor” (Article II.19.1.b of Annex II to the FP6 model contract)
- A **subcontract** is defined as “an agreement to provide services relating to tasks required for the project and which cannot be carried out by the contractor itself, concluded between the contractor and one or more subcontractors for the specific needs of the project” (Annex II EU standard contract). When work is to be subcontracted, it must be identified in the Technical Annex to the contract or limited to minor services and supplies (FP6 guide to financial issues, version Feb 2005).

Having regard to the facts that:

- The “jobs” do not cover tasks mentioned in the Technical Annex,
- The TS “jobs” comprise various minor pieces of manual work related to EU projects, such as manufacturing and assembly of electrical and electronic components, as well as technical design studies, provided by the TS department using existing framework agreements with CERN contractors to execute such jobs,

The participants in the meeting agreed as follows:

- (i) The TS “jobs” are **additional expenses** incurred by CERN and related to tasks of certain EU projects. These jobs can be seen **as cost-effective purchases** by CERN in order to provide some pieces of equipment and components necessary to carry out the CERN tasks under the EU projects.
- (ii) The TS “jobs” are purchases, which are classified in the “Materials” category of CERN’s accounting system and thus, **they shall be considered as eligible additional costs for the EU projects, to which the flat rate of 20% overheads will be applied** according to the Additional Cost model, used by CERN in FP6 Contracts.
- (iii) The TS “jobs” **should not be considered as sub-contracting** in the context of the EU 6th Framework Programme as they do not cover tasks mentioned in the Technical Annex and are executed in the framework of existing contracts (used for CERN’s own mission), and not on the basis of agreements concluded for the specific needs for the EU project concerned.